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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,713	07/22/2003	Paul G. Duncan	37724.011900D1	4935
22191	7590	12/29/2005		EXAMINER
GREENBERG-TRAURIG				BARAN, MARY C
1750 TYSONS BOULEVARD, 12TH FLOOR			ART UNIT	PAPER NUMBER
MCLEAN, VA 22102				2857

DATE MAILED: 12/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/623,713	DUNCAN ET AL.
Examiner	Art Unit	
Mary Kate B. Baran	2857	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 17 October 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1 and 5-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1 and 5-17 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 22 July 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                     | Paper No(s)/Mail Date. _____ .  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____ .                                  |

**DETAILED ACTION**

***Response to Amendment***

1. The action is responsive to the Amendment filed on 17 October 2005. Claims 1 and 5-17 are pending. Claims 2-4 are cancelled.

2. The amendments filed 17 October 2005 are sufficient to overcome the prior double patenting rejections.

***Priority***

3. If applicant desires to claim the benefit of a prior-filed application under 35 U.S.C. 120, a specific reference to the prior-filed application in compliance with 37 CFR 1.78(a) must be included in the first sentence(s) of the specification following the title or in an application data sheet. For benefit claims under 35 U.S.C. 120, 121 or 365(c), the reference must include the relationship (i.e., continuation, divisional, or continuation-in-part) of the applications.

If the instant application is a utility or plant application filed under 35 U.S.C. 111(a) on or after November 29, 2000, the specific reference must be submitted during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. If the application is a utility or plant application which entered the national stage from an international application filed on or after November 29, 2000, after compliance with 35 U.S.C. 371, the specific reference must be submitted during the pendency of the

application and within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) or sixteen months from the filing date of the prior application. See 37 CFR 1.78(a)(2)(ii) and (a)(5)(ii). This time period is not extendable and a failure to submit the reference required by 35 U.S.C. 119(e) and/or 120, where applicable, within this time period is considered a waiver of any benefit of such prior application(s) under 35 U.S.C. 119(e), 120, 121 and 365(c). A benefit claim filed after the required time period may be accepted if it is accompanied by a grantable petition to accept an unintentionally delayed benefit claim under 35 U.S.C. 119(e), 120, 121 and 365(c). The petition must be accompanied by (1) the reference required by 35 U.S.C. 120 or 119(e) and 37 CFR 1.78(a)(2) or (a)(5) to the prior application (unless previously submitted), (2) a surcharge under 37 CFR 1.17(t), and (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional. The petition should be addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

If the reference to the prior application was previously submitted within the time period set forth in 37 CFR 1.78(a), but not in the first sentence(s) of the specification or an application data sheet (ADS) as required by 37 CFR 1.78(a) (e.g., if the reference was submitted in an oath or declaration or the application transmittal letter), and the information concerning the benefit claim was recognized by the Office as shown by its inclusion on the first filing receipt, the petition under 37 CFR 1.78(a) and the surcharge

under 37 CFR 1.17(t) are not required. Applicant is still required to submit the reference in compliance with 37 CFR 1.78(a) by filing an amendment to the first sentence(s) of the specification or an ADS. See MPEP § 201.11.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 6-9, 11, 12, 16 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Carney (U.S. Patent No. 5,473,322).

Referring to claim 1, Carney teaches a remote sensing unit (see Carney, column 7 lines 53-65), comprising: at least one sensor, for measuring various aspects of the environment in proximity to a sensing unit (see Carney, column 4 lines 40-43); at least one signal processor, for processing measurements from said at least one sensor (see Carney, column 6 lines 1-7 and lines 42-51); a two-way telemetry function, for sending data to and receiving data from a host terminal (see Carney, column 7 lines 53-65); a tamper detection system for determining when said remote sensing unit has been opened (see Carney, column 4 lines 46-48); at least one controller, for storing results from said at least one signal processor, controlling power availability to selected devices associated with said remote sensing unit, and for processing data from said host terminal (see Carney, column 6 lines 1-7); and at least one power supply, for distributing

controlled power to selected devices associated with said remote sensing unit (see Carney, column 5 lines 10-22).

Referring to claim 2, Carney teaches that the at least one sensor is an optical sensor (see Carney, column 4 lines 40-43).

Referring to claim 3, Carney teaches that said optical sensor can detect electrical current flow (see Carney, column 4 lines 36-43).

Referring to claim 6, Carney teaches that at least one controller includes a microprocessor (see Carney, column 6 lines 1-7).

Referring to claim 7, Carney teaches that at least one controller can control power distribution from said one or more power supplies to other remote sensing unit components (see Carney, column 5 lines 10-22).

Referring to claim 8, Carney teaches that at least one power supply receives traditional electrical power (see Carney, column 5 lines 10-22).

Referring to claim 9, Carney teaches that at least one power supply receives power from an alternative energy source (see Carney, column 7 lines 7-15).

Referring to claim 11, Carney teaches that two-way telemetry function is comprised of plain old telephone service (see Carney, column 7 lines 53-57).

Referring to claim 12, Carney teaches that two-way telemetry function is comprised of a wireless, point to point radio frequency interface (see Carney, column 7 lines 57-61).

Referring to claim 16, Carney teaches a remote sensing method (see Carney, column 7 lines 53-65), comprising the steps of: controlling power available to selected remote sensing unit components (see Carney, column 5 lines 10-22); measuring at least one aspect of the environment in proximity to said remote sensing unit (see Carney, column 4 lines 40-43); processing and storing said at least one measured aspect as data (see Carney, column 6 lines 1-7); and transmitting said data to a host terminal (see Carney, column 7 lines 53-65).

Referring to claim 17, Carney teaches defining appropriate intervals during which said controlled power is available to said remote sensing unit components based on control information received from said host terminal (see Carney, column 6 line 58 – column 7 line 6).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 10 and 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carney (U.S. Patent No. 5,473,322) in view of Gaukel (U.S. Patent No. 6,072,396).

Referring to claim 10, Carney teaches all the features of the claimed invention except that said two-way telemetry function includes one or more cellular telephone interfaces.

Gaukel teaches that said two-way telemetry function includes one or more cellular telephone interfaces (see Gaukel, column 7 lines 35-38).

It would have been obvious at the time the invention was made to one of ordinary skill in the art to modify Carney to include the teachings of Gaukel because utilizing cellular telephone interfaces would have allowed the skilled artisan to accommodate greater communication traffic (see Gaukel, column 7 lines 63-65).

Referring to claim 13, Carney teaches all the features of the claimed invention except that said two-way telemetry function is comprised of a wireless satellite interface.

Gaukel teaches that said two-way telemetry function is comprised of a wireless satellite interface (see Gaukel, column 7 lines 39-42).

It would have been obvious at the time the invention was made to modify Carney to include the teachings of Gaukel because utilizing a wireless satellite interface would have allowed the skilled artisan to accurately determine position (see Gaukel, column 7 lines 39-43).

Referring to claims 14 and 15, Carney teaches all the features of the claimed invention except that said position determination device is a global positioning system.

Gaukel teaches that said position determination device is a global positioning system (see Gaukel, column 7 lines 35-38).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Carney to include the teachings of Gaukel because having a global positioning system would have allowed the skilled artisan to determine and store location data (see Gaukel, column 3 lines 57-59).

#### *Response to Arguments*

6. Applicant's arguments filed 17 October 2005 have been fully considered but they are not persuasive.

Applicant argues that Carney does not teach a device which measures various aspects of the environment; however, Applicant's arguments are not well taken. Carney teaches an optical sensor which measures the energy supplied through the meter (see Carney, column 4 lines 40-43). The measured energy (see Carney, column 5 lines 7-

12) is then used to determine combinations of power failure or tilt conditions (see Carney, column 6 lines 42-51).

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mary Kate B. Baran whose telephone number is (571) 272-2211. The examiner can normally be reached on Monday - Friday from 9:00 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc S. Hoff can be reached on (571) 272-2216. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

23 December 2005

HAL WACHSMAN  
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